

Date: April 3, 2009

To: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, D.C. 20554

Re: In the matter of: Request for Review or Waiver by the Board of Education of the Columbus Public Schools of Decision of Universal Service Administrator/ Ref. FCC Docket No. 02-6

LETTER OF APPEAL on "Notification of Improperly Disbursed Fund" (dated February 10, 2009)

E-Rate Funding Year 2003-2004

From: Columbus Public Schools ("CPS")¹
Contact Person: Wm. Michael Hanna and Amanda Scheeser, Counsel for CPS (216) 479-8500
Billed Entity Number: 129175
Application Number: 365588
FRN No. 1002370

Columbus Public Schools appeals the Universal Service Administrative Company's (USAC) Notification of Improperly Disbursed Funds issued on February 10, 2009 seeking reimbursement of \$548,971.00 .00 because it determined that CPS did not have an approved technology plan for part of the 2003-2004 funding year. USAC's determination is erroneous and should be corrected. CPS seeks review of the following issues on appeal:

- A. WHETHER CPS' TECHNOLOGY PLAN APPROVAL "EXPIRED" ON JULY 28, 2003, RESULTING IN NON-COMPLIANCE WITH §54.504(B)(2)(VII) AND FUNDING INELIGIBILITY BETWEEN JULY 29, 2003 AND JANUARY 29, 2004?
- B. WHETHER CPS' FAILURE TO SEEK TEMPORARY REAPPROVAL OF ITS 2000 TECHNOLOGY PLAN WARRANTS THE HARSH REMEDY OF RETURNING FUNDS THAT WERE UTILIZED FOR PROPER PURPOSES, CONSIDERING THE UNIQUE CIRCUMSTANCES IN THIS CASE?

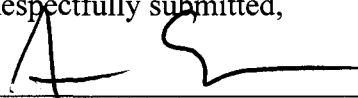
¹ The Columbus Public Schools are now known as the Columbus City Schools; however, because CPS is the name used through-out the current proceeding, the party seeking review will refer to itself as CPS.

Date:
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April 3, 2009

CPS respectfully requests that the FCC grant its request for review. CPS also requests that the FCC find that CPS had an approved technology plan in place for purposes of complying with §54.504 between July 29, 2003 and January 28, 2004, or if the FCC does not find such, determine that CPS is entitled to a waiver for failing to have an approved technology plan in place for the relevant period. With respect to either finding, CPS requests an order directing USAC to reconsider its recovery determination for the relevant period in accordance with the FCC's order.

Respectfully submitted,



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Attorneys for Appellant Board of Education of
Columbus Public Schools

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC**

In the Matter of:)	
)	
Request for Review or Waiver of Decision of)	
the Universal Service Administrator by)	
)	
The Board of Education of the Columbus)	
Public Schools ¹)	CC Docket No. 02-6
Columbus, Ohio)	
)	
Schools and Libraries Universal Service)	
Support Mechanism)	
)	

I. BACKGROUND INFORMATION

Under the direction of the Federal Communications Commission (FCC), the Schools and Libraries Division of the Universal Service Administrative Company (hereinafter "USAC") administers a program directed at funding telecommunications within schools and libraries, known as the E-Rate program. "Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections services." *Request for Review of the Decision of the Universal Service Administrator by Hickory Public Schools, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-426895, et al., CC Docket No. 02-6, Order, 22 FCC Rcd 11139, p.2 (rel. Jun. 20, 2007). Essentially, the applicant for E-Rate funds must devise a technology plan reflecting its needs and the services it desires and obtain approval of that plan by the relevant state authority. In Ohio, that authority is E-Tech Ohio (formerly "Ohio SchoolNet"). After the

¹ The Columbus Public Schools are now known as the Columbus City Schools; however, because CPS is the name used through-out the current proceeding, the party seeking review will refer to itself as CPS.

applicant selects its service providers through a bidding process and enters into service agreements, the applicant files an application for funds wherein it details the services needed, the service providers and the funds requested. USAC then issues funding commitment decisions and thereafter reimburses the designated funds.

II. COLUMBUS PUBLIC SCHOOL'S INTEREST IN THIS MATTER

The party requesting review is the Board of Education of the Columbus Public Schools located at 270 East State Street, Columbus Ohio, 43215 (hereinafter "CPS").² On February 10, 2007, USAC issued a Notification of Improperly Disbursed Funds letter with regard to funds disbursed under Funding Request Number (FRN) 1002370 for services rendered during the 2003-2004 funding year, effective July 1, 2003 to June 30, 2004. (Copy attached as Exhibit 1 and incorporated by reference). USAC is seeking recovery of \$548,971.00 because of USAC's claim that these funds were improperly disbursed for part of the funding year allegedly not covered by an approved technology plan between July 29, 2003 and January 29, 2004.

CPS, as the direct recipient of these funds, is an interested party and seeks review of this finding and notification only as it pertains to the \$548,971.00 recovery.

III. STATEMENT OF FACTS

Since the inception of the E-Rate program, CPS has filed hundreds of timely and proper technology funding requests with USAC. (McCarrick Declaration, ¶ 2) In 1999, CPS generated a technology plan in order to procure E-Rate funding for its school district. (McCarrick Declaration, ¶ 3) The technology plan was written to be effective beginning in the 1999-2000 funding year and continuing through the 2004-2005 funding year. (McCarrick Declaration, ¶ 3) CPS obtained approval from Ohio SchoolNet (SchoolNet) for this plan, effective July 28, 2000. (Exhibit 2)

² As the Board of Education is the governing body of CPS, the parties will be interchangeably referred to as "CPS."

In the spring of 2002, CPS began its efforts to revise its approved 2000 technology plan and gain approval of the new plan by SchoolNet. (McCarrick Declaration, ¶ 4) CPS initiated its plan to draft a revised technology plan at the suggestion of SchoolNet and based upon USAC's recommendation that technology plans should not exceed three years. (McCarrick Declaration, ¶ 4) The three year anniversary of CPS' approval of its 2000 technology plan was July 28, 2003. (McCarrick Declaration, ¶ 4) Because of a new and complex system implemented by SchoolNet for gaining technology plan approval, CPS was unable to secure approval of its revised technology plan before the July 28, 2003 anniversary date. (McCarrick Declaration, ¶ 5) As CPS was operating with the understanding that the approval for the 2000 technology plan would continue in effect until the revised plan was approved, CPS continued its efforts to complete SchoolNet's requirements throughout the first half of the 2003-2004 funding year. (McCarrick Declaration, ¶ 5) As of October 7, 2003, USAC had completed the approval process funding for the entire 2003-2004 funding year for CPS's applications. (McCarrick Declaration, ¶ 5)

CPS alerted USAC to the difficulties it encountered with SchoolNet's new online approval system in a letter dated October 28, 2003. (Exhibit 3) CPS also notified USAC that the "new [revised] plan [would] cover the full program year" in the letter. Between July 29, 2003 and January 28, 2004, CPS continued to utilize the installed telecommunication services that had already been approved by SchoolNet in the 2000 technology plan. (McCarrick Declaration, ¶ 6) The revised technology plan was eventually approved by E-Tech Ohio on January 29, 2004. (Exhibit 4) Approximately one year after CPS sent the letter alerting USAC to the procedural anomalies surrounding its revised technology plan approval, USAC paid CPS' submitted claims for telecommunication services rendered between July 29, 2003 and January 29, 2004.

(McCarrick Declaration, ¶ 7) CPS received no further communication from USAC until 2007.

(McCarrick Declaration, ¶ 7)

In 2007, USAC sent a letter to CPS notifying it that an audit had been completed with regard to its funding for telephone services requested pursuant to FRN 1045325 for the 2003-2004 funding year. (Exhibit 5) USAC further stated that it mistakenly paid CPS' claim in 2004 and would be seeking return of \$263,809.00 for the portion of the 2003 funding year when the CPS' technology plan was allegedly not "approved." (Exhibit 5). CPS appealed this determination to the FCC on January 25, 2008. This appeal is currently pending. While the current Notification of improperly Disbursed Funds letter involves a different FRN, the issues surrounding the technology plan is relative to both FRN 1045325 and FRN 1002370.

In the report addressing FRN 1002370, the auditor determined that "the approved technology plan in place, when filing the Federal Communications Commission ("FCC") Form 470, expired on July 28, 2003, 28 days into FY 2003. According to the auditor, the subsequent technology plan was not approved until January 29, 2004; therefore, the Beneficiary "did not have an approved technology plan in place to cover the entire funding year." (Exhibit 6). CPS responded to the auditor's findings, stating that the plan approval delay had no material impact because

[t]he services designated in [the 1999-2000 through the 2004-2005 school years] including those listed in FRN 1002370, were provided to CPS at least until the plan was revised and approved by E-Tech on January 29, 2004. Consequently, as CPS had a technology plan that was certified by its state and the services described in that plan were utilized between July 29, 2003 and January 29, 2004, CPS had an approved technology plan for the entire 2003-2004 school year. . . .

(Exhibit 6, Attachment 2). Finally, CPS argued that USAC's continued acceptance of forms and filings and its action of paying CPS's claims for the entire 2003-2004 funding year, even

after receiving notice of the delay in approval of the revised technology plan, led it “to believe [it] had sufficiently complied with the [program] requirements.” (Exhibit 6)

The auditor responded to CPS’s assertions, noting that it “understood” CPS’ position but that “per email notification from the certified Technology Plan approver for the State of Ohio, the Technology Plan in place during the filing of the FCC Form 470 was certified by the State for the period from July 28, 2000 through July 28, 2003. The subsequent Technology Plan was not approved until January 24, 2004 resulting in approximately a six month period for which an approved technology plan did not exist.” (Exhibit 6) On February 10, 2009, USAC sent CPS a “Notification of Improperly Disbursed Funds Letter[,]” notifying CPS that it would be requesting return of \$548,791 received for services rendered between July 1, 2003 and January 29, 2004 pursuant to FRN 1002370. (Exhibit 1)

CPS filed a timely appeal to the FCC pursuant to 47 CFR § 54.719.

IV. QUESTIONS PRESENTED FOR REVIEW

- A. WHETHER CPS’ TECHNOLOGY PLAN APPROVAL “EXPIRED” ON JULY 28, 2003, RESULTING IN NON-COMPLIANCE WITH §54.504(B)(2)(VII) AND FUNDING INELIGIBILITY BETWEEN JULY 29, 2003 AND JANUARY 29, 2004?
- B. WHETHER CPS’ FAILURE TO SEEK TEMPORARY REAPPROVAL OF ITS 2000 TECHNOLOGY PLAN WARRANTS THE HARSH REMEDY OF RETURNING FUNDS THAT WERE UTILIZED FOR PROPER PURPOSES, CONSIDERING THE UNIQUE CIRCUMSTANCES IN THIS CASE?

V. LAW AND ARGUMENT

- A. CPS’ TECHNOLOGY PLAN APPROVAL DID NOT “EXPIRE” ON JULY 28, 2003, RESULTING IN NON-COMPLIANCE WITH §54.504(B)(2)(VII) AND FUNDING INELIGIBILITY BETWEEN JULY 29, 2003 AND JANUARY 29, 2004.

Title 47, Chapter 1, Part 54 governs the disbursement of universal service funds under the E-Rate program. On July 29, 2003, when CPS’ technology plan was deemed no longer approved

for purposes of obtaining E-Rate funding, §54.504(b)(2)(vii) required a certification under oath by an applicant that, among other things “[t]he school, library or consortium including those entities ha[d] a technology plan that ha[d] been certified by its state, the Administrator, or an independent entity approved by the Commission.”³ Moreover, USAC, as administrator of the E-Rate program, made additional demands upon applicants, including setting due dates for various form filings and advising applicants regarding the recommended length of technology plans:

Approved technology plans should cover a period of not more than three years. In view of the rapid development cycle of new technologies and services, schools and libraries should approach long-term commitments with caution. However, long-range planning may be important in the case of some lease-purchase arrangements or very large capital investments that require extended commitments. There may also be cases in which an approved plan is longer than three years to conform to federal, state, or local requirements. Whenever an approved plan is longer than three years, there should be a significant review of progress during the third year.

As noted previously, CPS had a technology plan in place for the 1999-2000 funding year through the 2004-2005 funding year, which was approved by SchoolNet in 2000. The services designated in that technology plan, including those listed in FRN 1002370, were provided to CPS at least until the plan was revised and approved by E-Tech on January 29, 2004. Consequently, as CPS “[had] a technology plan that [was] certified by its state” and the services described in that plan were utilized between July 29, 2003 and January 29, 2004, CPS had an approved technology plan for the entire 2003-2004 funding year. Therefore, CPS’ certification regarding the approval status of its technology plan was clearly in compliance with requirements of §54.504(b)(2)(vii).

³ In 2004, in an effort to curb “waste, fraud and abuse,” the FCC issued its Fifth Report and Order, clarifying several issues related to the E-Rate program. The Fifth Report and Order specifically referenced the technology plans and revised §54.504(b)(2)(vii), directing that “applicants with technology plans not yet approved when they file FCC Form 470 must certify that they understand their technology plans must be approved prior to commencement of service.” Language reflecting this sentiment was ultimately added to Chapter 54 as a new section, §54.508.

While the auditor in this case determined that the 2000 technology plan was only approved through July 28, 2003 for purposes of complying with §54.504, it is unclear where the auditor derived the technology plan approval “expiration” date. SchoolNet’s 2000 approval letter does not set a date of approval “expiration.” Rather, it appears that the auditor imputed USAC’s suggestion that technology plans be limited to three years. However, USAC’s recommendation is clearly not a conclusive directive, and it appears that the FCC has not addressed the maximum life of an approved technology plan. In any event, neither USAC nor the FCC has announced that an exact three year expiration date should be *imputed* to any existing technology plan. CPS should not have been required to get reapproval of its technology plan or lose E-Rate funding because of an arbitrary technology plan termination date.

Moreover, common sense dictates that once specific terms of a technology plan have been “approved,” the appropriateness of those terms and the plan does not just “expire” on a specific date, especially when the technology plan submitted reflected the school’s continued need for the same services, the applicable service providers and the funds desired, and the actual technology plan as drafted by the school exceeds three years.⁴

Furthermore, CPS has met the FCC’s goals in requiring technology plan approval of ensuring that the plans are “based on the reasonable needs and resources of the applicants and are consistent with the goals of the program.” As CPS’s reasonable needs and resources had already been assessed and deemed provided for in the 2000 technology plan, it is difficult to comprehend how the validity of such a determination could vanish on any single given day.

⁴ Even if the three-year technology plan is really a USAC “rule”, CPS clearly complied with the provision that permits plans longer than three years if significant review takes place in the third year. In this case, CPS reviewed the entire technology plan in the middle of the third year in order to assess any changes in needs for the subsequent technology plan.

Finally, even assuming CPS did not have a *state-approved* plan after July 28, 2003, the auditor failed to recognize that the USAC is a proper “approving” body under §54.504(2)(b)(vii). Surely, USAC implicitly approved CPS’ continued technology plan when it accepted its claims and paid them after receiving notice that CPS had not acquired renewed approval of its technology plan between July 29, 2003 and January 29, 2004. As such, USAC should not be permitted to feign ignorance of the continued validity of CPS’s 2000 technology plan.

Based on the forgoing, CPS had an approved technology plan in place between July 28, 2003 and January 29, 2004 and therefore was entitled to the funds disbursed under FRN 1002370 for the relevant period.

- B. CPS’ FAILURE TO SEEK TEMPORARY REAPPROVAL OF ITS 2000 TECHNOLOGY PLAN DOES NOT WARRANT THE HARSH REMEDY OF RETURNING FUNDS THAT WERE SPENT ON PROPER SERVICES, CONSIDERING THE UNIQUE CIRCUMSTANCES IN THIS CASE.

Audits in the E-Rate program are “a tool for the Commission and USAC, as directed by the Commission to ensure program integrity and to detect and deter waste . . . [and] can reveal instances in which universal service funds were improperly disbursed or used in a manner inconsistent with the statute or the Commission’s rules.” *Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, 20 FCC Rcd 11308, 11337, pp. 69 & 70 (2005). USAC, as the administrator of the funds, recovers any erroneously disbursed funds. *Schools and Libraries Fifth Report and Order*, 19 FCC Rcd 15808, 15814, n. 37 (2004). However, the FCC has noted that “recovery may not be appropriate for violations of all rules regardless of the reason for their codification.” *Id.* at 15815, p. 19. For example, the FCC has determined that “recovery may not be appropriate for a violation of procedural rules codified to enhance operation of the [E-R]ate program,” and if the procedural violation is unintentionally missed during the application phase and funds are subsequently disbursed, “the Commission will not

require that they be recovered, except to the extent that such rules are essential to the financial integrity of the program, as designated by the agency, or that circumstances suggest the possibility of waste, fraud or abuse, which will be evaluated on a case-by-case basis.” *Id.*

In this case, CPS has done nothing to detract from the E-Rate program’s “integrity” and has not committed any waste because of its failure to reapprove its technology plan for the short period that it experienced technical difficulties with SchoolNet’s new online technology plan approval system. Rather CPS has been an outstanding participant of the E-Rate program, utilizing its funding to provide technological services to 128 buildings and approximately 55,000 students. CPS has appropriately complied with the FCC and USAC’s rule in hundreds of other funding requests and USAC has paid these claims without question. As demonstrated previously, CPS had an approved technology plan that was adhered to between July 29, 2003 and January 29, 2004. It is hard to imagine how the rote reapproval of an already approved technology plan that was intended from inception to cover the relevant time period could be “essential to the financial integrity of the program” so as to warrant recovery of funds disbursed six years ago. Moreover, the FCC’s lack of reference to the maximum duration of technology plan approvals in Chapter 54 or its subsequent orders also indicates that reapproval of a technology plan while approval of a revised technology plan is pending is “not essential to the financial integrity of the program.”

Additionally, there is absolutely no allegation that this procedural irregularity resulted in any waste, fraud, or abuse. Finally, FCC’s example of a substantive rule violation that does not rise to the level of waste, fraud or abuse clearly reveals that the FCC only deems recovery necessary when the substance of the E-Program is affected. Specifically, the FCC noted that a request for a service ineligible for payment from the universal service fund would be a substantive rule violation where recovery would be warranted. In this case, there is no allegation

that CPS received the improper services or used improper service providers under FRN 1002370. Rather, the contracts for service in effect under the previously approved technology plan were in place for the entire 2003-2004 school year and there is no evidence that there was an intent on the part of CPS to discontinue this service mid-contract. Continuation of the installed service was implicit in the technology plan update preparation that occurred during this period. As the service was in active use through the full length of the revised technology plan, which was approved by the state, and provided for the same services as those provided in the previously approved technology plan, CPS complied with the substantive provisions of the E-Rate program to acquire the funding for this request. Based on the foregoing, recovery of funds already disbursed for the 2003-2004 funding year is not warranted.

Finally, even if CPS was required to have obtained reapproval of its technology plan for the period between July 29, 2003 and January 29, 2004 in order to maintain E-Rate funding for the 2003-2004 funding year, the FCC may, on its own motion and for good cause shown, waive this rule. The FCC has determined that:

A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. (footnotes omitted).

Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-487170, CC Docket No. 02-6, Order, 22 FCC Rcd 11139, p.2 (rel. May 19, 2006).

Waiver is clearly warranted in this case. First, the FCC has routinely waived compliance for violations of strictly procedural violations when the record contains no evidence of an intent to “defraud or abuse the E-rate program.” *See Request for Review of the Decision of the Universal Service Administrator by Hickory Public Schools, Schools and Libraries Universal Service Support Mechanism*, 22 FCC Rcd at 11142, p. 5); *See Requests for Review of the Decisions of the Universal Service Administrator by Brownsville Independent School District, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-482620, et al., CC Docket No. 02-6, Order, 22 FCC Rcd 6045, n. 17 & 21) (rel. Mar. 28, 2007); *Request for Review of the Decision of the Universal Service Administrator by Cincinnati City School District, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-376499, CC Docket No. 02-6, Order, p. 8) (rel. May 26, 2006).

While not conceding that a waiver of the Commissions rules is required in this case because CPS had an approved technology plan in place for the relevant time period, in *Brownsville*, the FCC granted a waiver to the Cleveland County Memorial Library where it based their E-Rate funding applications “on approved technology plans from prior years while they updated those plans and obtained approval consistent with state time-frames and procedures.” As this reflects CPS’ situation, the FCC should grant it a waiver as well. Moreover, as noted previously, there is absolutely no allegations or evidence that CPS intended to defraud or abuse the E-Rate program as demonstrated by CPS’s history with the E-Rate program and the happenstance nature of the current alleged rule violation. Moreover, in this case, USAC’s own dilatory conduct compounded the confusion surrounding the relevant period when it accepted and paid CPS’s claims after it was notified that the revised technology plan had not been approved by E-Tech before services for the 2003-2004 funding year began. Furthermore, as the

services requested with regard to FRN 1002370 in the technology plan approved on January 29, 2004 were “the same type requested and budgeted” as in the previous plan, there was clearly no intent to abuse the substantive provisions of the E-rate program. Finally, CPS will encounter an enormous burden to reallocate current funds in order to pay for telecommunication services that were provided six years ago. Strictly enforcing the “approval” requirement would unnecessarily harm a large school district servicing thousands of students for what amounts to a procedural error that does not take away from the goal of the E-Rate program of providing affordable telecommunication services to the public. Clearly, the public interest would not be served by seeking recovery from CPS.

Consequently, if reapproval of CPS’ technology plan was required under its rules, the FCC should grant CPS a waiver for the omission.

VI. RELIEF REQUESTED

CPS respectfully requests that the FCC grant its request for review. CPS also requests that the FCC find that CPS had an approved technology plan in place for purposes of complying with §54.504 between July 29, 2003 and January 28, 2004, or if the FCC does not find such, determine that CPS is entitled to a waiver for failing to have an approved technology plan in place for the relevant period. With respect to either finding, CPS requests an order directing USAC to reconsider its recovery determination for the relevant period in accordance with the FCC’s order.

Respectfully submitted,



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Attorneys for Appellant Board of Education of
Columbus Public Schools

DECLARATION

STATE OF OHIO)
) SS: **DECLARATION OF JACK MCCARRICK**
COUNTY OF FRANKLIN)

1. I am an analyst in the Information Support Services Department of the Columbus Public Schools (CPS) and the designated E-Rate Coordinator.

2. Since the inception of the E-Rate program, CPS has filed hundreds of timely and proper technology funding requests with USAC.

3. In 1999, CPS generated a technology plan in order to procure E-Rate funding for its school district. The technology plan was written to be effective beginning in the 1999-2000 funding year and continuing through the 2004-2005 funding year. CPS obtained approval from Ohio SchoolNet (SchoolNet) for this plan, effective July 28, 2000.

4. In the spring of 2002, CPS began its efforts to revise its approved 2000 technology plan and gain approval of the new plan by SchoolNet. CPS initiated its plan to draft a revised technology plan at the suggestion of SchoolNet and based upon USAC's recommendation that technology plans should not exceed three years. The three year anniversary of CPS' approval of its 2000 technology plan was July 28, 2003.

5. Because of a new and complex system implemented by SchoolNet for gaining technology plan approval, CPS was unable to secure approval of its revised technology plan before the July 28, 2003 anniversary date. As CPS was operating with the understanding that the approval for the 2000 technology plan would continue in effect until the revised plan was approved, CPS continued its efforts to complete SchoolNet's requirements throughout the first half of the 2003-2004 funding year. As of October 7, 2003, USAC had completed the approval process funding for the entire 2003-2004 funding year for CPS's applications.

6. Between July 29, 2003 and January 28, 2004, CPS continued to utilize the installed telecommunication services that had already been approved by SchoolNet in the 2000 technology plan.

7. USAC eventually paid CPS' submitted claims for telecommunication services rendered between July 29, 2003 and January 29, 2004. CPS received no further communication from USAC until 2007.

8. All Exhibits attached to CPS' appellate brief are true and accurate copies of documents maintained by CPS.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and is based upon my personal knowledge.

Executed on: January 25, 2008

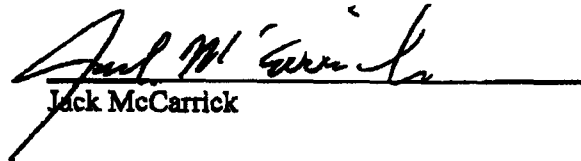

Jack McCarrick

Exhibit 1

Notification of Improperly Disbursed Funds Letter

Funding Year 2003: 7/01/2003 - 6/30/2004

February 10, 2009

**Jack McCarrick
COLUMBUS PUBLIC SCHOOLS
1091 King Ave
Columbus, OH 43212 2204**

**Re: Form 471 Application Number: 365588
Funding Year: 2003
Applicant's Form Identifier: Y6-471-01
Billed Entity Number: 129175
FCC Registration Number: 0004855359
SPIN Name: Ameritech Advanced Data Services, Inc.
Service Provider Contact Person: Raelanda Gunn**

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were disbursed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) must now recover these improper disbursements. The purpose of this letter is to inform you of the recoveries as required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error.

This is NOT a bill. The next step in the recovery of improperly disbursed funds process is for SLD to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

TO APPEAL THIS DECISION

If you wish to appeal the Notification of Improperly Disbursed Funds decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Improperly Disbursed Funds Letter and the funding request numbers you are appealing. Your letter of appeal must also include the applicant name, the Form 471 Application Number, Billed Entity Number, and the FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Improperly Disbursed Funds letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal

If you are submitting your appeal electronically, please send your appeal to appeals@sl.universalservice.org using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Dept. 125 - Correspondence Unit, 100 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site or by calling the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site or by calling the Client Service Bureau. We strongly recommend that you use the electronic filing options.

FUNDING DISBURSEMENT REPORT

On the pages following this letter, we have provided a Funding Disbursement Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from the application for which recovery is necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report. The SLD is also sending this information to the service provider for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the service provider detailing the necessary service provider action. The Report explains the exact amount the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Raelanda Gunn
Ameritech Advanced Data Services, Inc.

A GUIDE TO THE FUNDING DISBURSEMENT REPORT

Attached to this letter will be a report for each funding request from the application cited at the top of this letter for which a Recovery of Improperly Disbursed Funds is required. We are providing the following definitions.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each individual request in a Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support programs.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on the Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on the Form 471.

SITE IDENTIFIER: The Entity Number listed on Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

FUNDING COMMITMENT: This represents the amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

FUNDS DISBURSED TO DATE: This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

FUNDS TO BE RECOVERED FROM APPLICANT: This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

DISBURSED FUNDS RECOVERY EXPLANATION: This entry provides the reason why recovery is required.

**Funding Disbursement Report
for Form 471 Application Number: 365588**

Funding Request Number:	1002370
Services Ordered:	TELCOMM SERVICES
SPIN:	143005375
Service Provider Name:	Ameritech Advanced Data Services, Inc.
Contract Number:	OH-35845
Billing Account Number:	BTN 614-R02-0342
Site Identifier:	129175
Funding Commitment:	\$4,175,556.76
Funds Disbursed to Date:	\$4,153,612.24
Funds to be Recovered from Applicant:	\$548,791.00

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that the funds were improperly disbursed on this funding request. During the course of an audit it was determined that the technology plan did not cover the entire funding year for this funding request. Program rules require that a technology plan be effective during the entire funding year in which the applicant is seeking support for services other than basic telecommunication service. On the Form 486 it was indicated that the services for FRN 1002370 began on 07/01/03. During the course of review it was discovered that your technology plan became effective on 01/29/04, which was after the date your services commenced for this FRN. Therefore, USAC will seek recovery of improperly disbursed funds for this FRN in the amount of \$548,791.00 for the part of the funding year not covered with the technology plan.

Exhibit 2



District Columbus City IRN 043802
District Contact Name Pete Trautman
Phone Number 614-365-5000 Email _____

☒ Approved Technology Plan – meets all criteria

☐ Technology Plan does not meet criteria. It may be resubmitted to the Super Region Manager after editing to reflect recommendations listed.

Reviewer Name Martin McKay
Date Reviewed 7/28/00
Super Region Manager Patricia Peoples *PL Peoples*
Date 7/28/00

OFFICE OF INFORMATION, LEARNING AND TECHNOLOGY SERVICES
1320 Arthur E. Adams Drive - Columbus, OH 43221 - 614 728-TECH - Fax: 614 728-1889
www.ohioschoolnet.k12.oh.us

EXHIBIT 2

Columbus City Schools District Technology Plan 1999-2004

I. Technology Advisory Committee

- Evidence of committee members representing the community.

Name _____ Committee Title _____

Exhibit 3



COLUMBUS PUBLIC SCHOOLS

OFFICE OF THE CIO
1091 King Avenue Columbus, Ohio 43212
(614) 368-6193

October 28, 2003

Universal Service Administrative Company
Schools and Libraries Division
Attention: PLA Team

Re: Technology Plan

We find ourselves in an unusual situation and felt the best way to handle it was to explain the circumstances. Today is the deadline to file Form 486 identifying the services begun July 1, 2003.

Our prior approved Technology Plan was still in effect when this program year began and we were actively engaged in preparing the new plan. Since then, our plan has officially expired before the revised plan was approved.

The services listed on the attached form are operational telecommunications services that continue year to year without regard to the program approval.

We continue to make progress on the new plan but now have a period within the program year that is not yet covered by an approved plan. The new plan will cover the full program year. Ohio SchoolNet requires that we assemble our plan using a new online system. Our efforts to date have been available for their inspection.

This letter is associated with our Form 486 filing identified as Y6-486-01.

The issue is also documented in case 1-4221899.

We have historically sought reimbursement at year end on our approved funding requests. We expect to have the new plan approved by all necessary parties before we file any claims against these FRNs.

Sincerely,

Richard E. Reynolds
Chief Information Officer

Exhibit 4

The Ohio SchoolNet Commission
2323 W. 5th Avenue
Suite 100
Columbus, OH 43204

Jan 29, 2004

Columbus City SD - 043802
270 E State St
Columbus, OH 43215
Phone: (614) 365-5000

Plan Committee Leader Approval By: Jack McCarrick
Treasurer Approval By: Jerry Buccilla
Superintendent Approval By: Gene Harris
Ohio SchoolNet Reviewer: Carol Van Deest

Congratulations! The Ohio SchoolNet Commission has approved your Technology Plan for the 2003-2004, 2004-2005, and 2005-2006 school years.

Certification Period: Jan 29, 2004 - Jun 30, 2006

Please retain this document for future reference. A copy of this technology plan approval certification is also available in your district's technology plan archive within the Technology Planning Tool (TPT) application [<http://www.osn.state.oh.us/go/tpf>]. Please note that an approved technology plan is an eligible requirement for most Ohio SchoolNet grant programs.

Evaluation is a critical component of technology planning. Therefore, even though your Technology Plan has been approved for three (3) school years, Ohio SchoolNet recommends that you review and revise your plan regularly, at minimum on an annual basis, to accommodate emerging technologies and other changes.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Julie Fox,
Executive Director, Ohio SchoolNet

Exhibit 5



KPMG LLP
1000 International Drive
McLean, VA 22102

Independent Accountants' Report

Columbus Public Schools

Universal Service Administrative Company

Federal Communications Commission:

We have examined Columbus Public School's (Beneficiary Number 129175) compliance, relative to Funding Request Number 1045325, with the Federal Communications Commission's 47 C.F.R. Part 34 Rules and related Orders identified in the accompanying Attachment 1 relative to disbursements of \$547,599 for telecommunication services made from the Universal Service Fund during the fiscal year ended September 30, 2005 and relative to its application and service provider selection processes for Funding Year 2003. Management is responsible for compliance with those requirements. Our responsibility is to express an opinion on Columbus Public School's compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence about Columbus Public School's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on Columbus Public School's compliance with specified requirements.

Our examination disclosed material noncompliance with technology plan certification and service eligibility requirements applicable to Columbus Public Schools relative to disbursements made from the Universal Service Fund during the fiscal year ended September 30, 2005 and relative to its application process for Funding Year 2003. Detailed information relative to the material noncompliance is described in items 129175-2005-01 and -02 in Attachment 2.

In our opinion, except for the material noncompliance described in the third paragraph, Columbus Public Schools has complied, in all material respects, relative to Funding Request Number 1045325, with the aforementioned requirements relative to disbursements of \$547,599 for telecommunication services made from the Universal Service Fund during the fiscal year ended September 30, 2005 and relative to its application and service provider selection processes for Funding Year 2003.

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control that are material to compliance with the aforementioned requirements. We performed our examination to express an opinion on whether Columbus Public Schools complied with the aforementioned requirements and not for the purpose of expressing an opinion on the internal control over such compliance; accordingly, we express no such opinion. Our examination disclosed findings that are required to be reported under *Government Auditing Standards* and those findings, along with the views of management, are described in items 129175-2005-01 and -02 in Attachment 2.

EXHIBIT 5

[REDACTED]

In addition, and in accordance with *Government Auditing Standards*, we noted an immaterial instance of noncompliance that we have reported to the management of Columbus Public Schools in a separate letter dated March 16, 2007.

KPMG LLP

March 16, 2007

Attachment 1

**Federal Communications Commission's (FCC's) 47 C.F.R. Part 54 Rules and Related Orders
with which Compliance was Examined**

Document Retention Matters:

Section 54.516 (a), which was effective from July 17, 1997 through November 11, 2004

Application Matters:

Section 54.501 (b), which was effective as of July 17, 1997

Section 54.504 (a), which was effective as of July 17, 1997

Section 54.504 (b), which was effective as of July 17, 1997

Section 54.504 (b) (1), which was effective as of July 17, 1997

Section 54.504 (b) (2), which was effective as of July 17, 1997

Section 54.504 (c), which was effective as of February 12, 1998

Section 54.505 (b), which was effective as of July 17, 1997

Section 54.505 (c), as revised, which was originally effective as of July 17, 1997

Section 54.502, which was effective as of February 12, 1998

FCC Order 03-313, paragraph 56, which was issued on December 8, 2003

Attachment 1, continued**Federal Communications Commission's (FCC's) 47 C.F.R. Part 54 Rules and Related Orders
with which Compliance was Examined, continued****Service Provider Selection Matters:**

Section 54.504 (a), which was effective as of July 17, 1997

Section 54.504 (b) (4), which was effective as of February 12, 1998

Section 54.511 (a), which was effective as of July 17, 1997

FCC Order 03-101, paragraph 24, which was issued on July 15, 2003

FCC Order 00-167, paragraph 10, which was issued on May 23, 2000

Receipt of Services and Reimbursement Matters:

Section 54.505 (a), which was effective as of July 17, 1997

Section 54.514 (b), which was effective as of August 14, 2003

Section 54.504 (b) (2) (ii), which was effective as of July 17, 1997

Section 54.500 (b), which was effective as of August 14, 2003

Section 54.504 (b) (2) (iii), which was effective as of July 17, 1997

Section 54.513 (c), which was effective as of March 11, 2004

Section 54.504 (b) (2) (v), which was effective as of July 17, 1997

Section 54.504, which was effective as of July 17, 1997

Section 54.504 (g), which was effective as of March 11, 2004

FCC Order 03-313, paragraph 60, which was issued on December 8, 2003

Attachment 2

Detailed Information Relative to Material Noncompliance (Findings)
(presented in accordance with the standards applicable to a station engagement conducted
in Government Auditing Standards)

Finding No. 129175-2005-01

Condition

At the time of filing the Federal Communications Commission ("FCC") Form 470, Columbus Public Schools ("Beneficiary") had an approved technology plan in place which had been certified by the FCC authorized approver, eTech Ohio (formerly Ohio SchoolNet Commission), for the period July 28, 2000 to July 28, 2003. The technology plan itself was a five year plan for the years 2000 through 2005.

Subsequent to filing the FCC Form 470, the Beneficiary was in the process of preparing a new technology plan utilizing the online program required by eTech Ohio. In October 2003, the Beneficiary's Schools and Libraries Program Coordinator became aware that the Beneficiary did not have a certified technology plan and included a letter to the Schools and Libraries Program with its FCC Form 486 to that effect. Due to timing issues and the complexity of the new online program, the subsequent technology plan was not approved by eTech until January 29, 2004, which was after services under Funding Request Number ("FRN") 1045325 had begun. The letter notifying the Beneficiary of the approval of this technology plan noted a certification period of January 29, 2004 to June 30, 2006. Accordingly, the Beneficiary did not have a technology plan certified by eTech Ohio for the period of July 29, 2003 through January 28, 2004.

KPMG notes that FRN 1045325 was for Centrex services. Based on our review of the technology plan approved on January 29, 2004, we noted the same type of services being requested and budgeted as in the previous certified plan. KPMG specifically identified discussion within the new plan stating, "Telephone service continues to be primarily in administrative area....Building phone systems and services are being re-evaluated as part of the Facilities Master Plan."

Criteria

Per FCC Rule 54.504 (b) (2) (vii), schools/districts applying for support were required to have a technology plan that had been certified by its state, the Universal Service Administrative Company ("USAC") or an independent entity approved by the FCC at the time of filing the FCC Form 470.

Attachment 2, continued

Detailed Information Relative to Material Noncompliance (Findings), continued
(presented in accordance with the standards applicable to attestation engagements contained
in *Government Auditing Standards*)

Cause	Due to timing issues and the complexity of the new online program required by eTech Ohio, the technology plan was not approved by eTech Ohio until January 29, 2004. Failure to maintain a certified technology plan for the period of service represents a deficiency in internal controls over compliance with FCC Rules within the Beneficiary's application process.
Effect	The monetary effect of this finding is that the \$263,809 of Schools and Libraries funds disbursed for services during the period July 29, 2003 through January 28, 2004 are subject to recovery by USAC. This amount was determined by multiplying the \$333,935 undiscounted cost of those services by the Beneficiary's 79% discount rate.
Recommendation	<p>We recommend the Beneficiary obtain a certified technology plan for the entire funding year. In doing so, all funds received will be in compliance with the indicated FCC rules and regulations. We note that the current FCC Rules require that the technology plan must be certified before receipt of services.</p> <p>KPMG recommends that USAC seek recovery based on this finding consistent with applicable FCC Rules and Orders.</p>
Beneficiary Response	<p>Form 471 filings significantly determine an applicant's program participation during any funding year. Technology plan approvals after the form 471 is filed have limited opportunity to affect an applicant's program activity until the next filing window. The plan approval delay in question had no material impact on the district direction. The Form 471 filing and the plan update were based on an understanding that the already installed services would continue in the new planning period. In this case, voice telephone service removal was never a planning option.</p> <p>We have not been able to identify an adopted USAC rule which explicitly makes an approved technology plan invalid after an exact number of days. Exact day planning is not a common practice in "higher level" technology plans. The finding is based on exact day determinations. We believe this finding is also based on the perception that an explicit plan length rule exists. We note that technology plans identify course adjustments and do not necessarily reauthorize each installed service. USAC processing delays are disruptive to all technology plans.</p>

Attachment 2 continued

Detailed Information Relative to Material Noncompliance (Findings), continued
(presented in accordance with the standards applicable to attestation engagements contained
in *Government Auditing Standards*)

We notified both USAC and the FCC that our technology planning effort had been delayed by significant changes in State requirements. The program continued to accept our forms, our filings, and paid claims leading us to believe we had sufficiently complied with program requirements until this 2007 examination.

We note that the Fifth Report and Order was adopted after this funding period. The report has a large amount of content regarding technology planning, but is silent on exact technology plan length and expiration. In paragraph 61 the report states "Only if an applicant desires to order services beyond the scope of its existing technology plan does it need to prepare and seek timely approval of an appropriately revised technology plan."

Technology plans do not abruptly end, they are replaced by periodic updates and recertifications. We do not believe there is a reasonable basis for a finding.

**KPMG Comment on
Beneficiary Response**

With respect to timing of a technology plan becoming "invalid", we made no such determination. Correspondence we received directly from eTech Ohio clearly noted the periods of "certification" for the two technology plans as described in the Condition above. As described in the Condition above, we agree that the new technology plan did not change the intent to continue services related to FRN 1045325.

KPMG noted the Beneficiary did take steps to notify both USAC and the FCC. However, better practices would indicate the Beneficiary obtain further guidance/approval from USAC regarding compliance with all program requirements or to obtain a waiver.

KPMG notes that the Fifth Report and Order was adopted after Funding Year 2003. Consequently, this order was not applicable to the Funding Year under examination.

Attachment 2, continued

Detailed Information Relative to Material Noncompliance (Findings), continued
(presented in accordance with the standards applicable to attestation engagements contained
in Government Auditing Standards)

Funding No.**129175-2005-02****Condition**

KPMG obtained all service provider billings related to the telecommunication services funded under FRN 1045325 and compared those services to the Eligible Services Listing ("BSL") for Funding Year 2003. Based on that comparison, we noted three types of services, paid for by Columbus Public School and invoiced to USAC, which were ineligible items during Funding Year 2003. The ineligible items and their associated costs for the periods during which the Beneficiary had certification of its technology plan are as follows:

1. Basic Voice Mail Service - \$11,675 (\$14,778 undiscounted cost multiplied by the Beneficiary's 79% discount rate) -- (February 2004 through June 2004)
2. Additional Directory Listing - \$3,091 (\$3,913 undiscounted cost multiplied by the Beneficiary's 79% discount rate) -- (July 2003 and February 2004 through June 2004)
3. CD-ROM Charge - \$296 (\$375 undiscounted cost multiplied by the Beneficiary's 79% discount rate) -- (July 2003 and February 2004 through June 2004)

Criteria

Per FCC Rule 54.502, schools/districts applying for support are to request only eligible goods and services.

Per FCC Rule 54.505 (e), schools/districts are to apply their discount percentage to the appropriate pre-discount price.

Per FCC Rule 54.504 (d), schools/districts are to allocate the costs of any contract that includes both eligible and ineligible components to those eligible and ineligible components in the related request for discount.

Cause

The Beneficiary sought reimbursement for the full amount of the service provider invoices without a detailed review of their components for eligibility. This failure to perform a detailed review of the invoices for the eligibility of its components represents a deficiency in internal controls over compliance with FCC Rules within the Beneficiary's reimbursement process.

Attachment 2, continued

Detailed Information Relative to Material Noncompliance (Findings), continued
(presented in accordance with the standards applicable to attestation engagements contained
in *Government Auditing Standards*)

Effect	The monetary effect of this finding is that the \$15,062 reimbursed relative to the ineligible services is subject to recovery by USAC. That amount includes \$11,675 for Voice Mail, \$3,091 for directory listings and \$296 for CD-ROMs.
Recommendation	<p>We recommend the Beneficiary consult the Eligible Service List prior to requesting future goods and services to ensure their eligibility for Schools and Libraries program reimbursement. Further, the Beneficiary needs to perform a review of service provider billings to identify ineligible charges prior to requesting reimbursement from USAC.</p> <p>KPMG recommends that USAC seek recovery based on this finding consistent with applicable FCC Rules and Orders.</p>
Beneficiary Response	The unreported ineligible items found in the billings were significantly invisible in the 12,000 pages of billing documents. We had removed the ineligible items that were apparent prior to filing the claim. It took USAC level research in other records to quantify the finding costs when the omission was discovered. During this period the eligibility of voice mail changed from ineligible to eligible in USAC documents. We believe the program's excessive complexity, changing program rules and weaknesses in common carrier billing practices were all factors in the claim preparation error.

Exhibit 6

COLUMBUS PUBLIC SCHOOLS

Audit Number: SL-2007-149

BEN Number: 129175

EXHIBIT C



KPMG LLP
2001 M Street, NW
Washington, DC 20036

Independent Accountants' Report

Columbus Public Schools

Universal Service Administrative Company

Federal Communications Commission:

We have examined Columbus Public Schools' (Beneficiary Number 129175) compliance with the Federal Communications Commission's 47 C.F.R. Part 54 Rules and related Orders identified in the accompanying Attachment 1 relative to disbursements of \$5,316,200 made from the Universal Service Fund during the fiscal year ended June 30, 2007 and relative to its Funding Year 2003 and 2005 applications for funding and service provider selections related to the Funding Request Numbers for which such disbursements were made. Management is responsible for Columbus Public Schools' compliance with those requirements. Our responsibility is to express an opinion on Columbus Public Schools' compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence about Columbus Public Schools' compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on Columbus Public Schools' compliance with specified requirements.

Our examination disclosed material noncompliance with technology plan approval requirements applicable to Columbus Public Schools relative to disbursements made from the Universal Service Fund during the fiscal year ended June 30, 2007 and relative to its application process for FY 2003. Detailed information relative to the material noncompliance is described in item SL2007BE149 F01 in Attachment 2.

In our opinion, except for the material noncompliance described in the third paragraph, Columbus Public Schools complied, in all material respects, with the aforementioned requirements relative to disbursements of \$5,316,200 made from the Universal Service Fund during the fiscal year ended June 30, 2007 and relative to its Funding Year 2003 and 2005 applications for funding and service provider selections related to the Funding Request Numbers for which such disbursements were made.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies and material weaknesses that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether Columbus Public Schools complied with the aforementioned requirements and not for the purpose of expressing an opinion on the internal control over compliance; accordingly, we express no such opinion. Our examination disclosed



certain findings, as discussed below that are required to be reported under *Government Auditing Standards*.

A control deficiency in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal program on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to comply with federal program requirements, such that there is more than a remote likelihood that noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the entity's internal control. We consider the deficiencies in internal control over compliance described in items SL2007BE149_F01 and SL2007BE149_F02 in Attachment 2 to be significant deficiencies.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement of a federal program will not be prevented or detected by the entity's internal control. Of the significant deficiencies in internal control over compliance described in Attachment 2, we consider item SL2007BE149_F01 to be a material weakness.

Columbus Public Schools' responses to the findings identified in our examination are described in Attachment 2. We did not examine Columbus Public Schools' responses, and accordingly, we express no opinion on them.

KPMG LLP

September 29, 2008

Attachment I

**Federal Communications Commission's (FCC's) 47 C.F.R. Part 54 Rules and Related Orders
with which Compliance was Examined**

Document Retention Matters:

Section 54.504 (c) (1) (x), which was effective as of October 13, 2004

Section 54.516 (a), which was effective from July 17, 1997 through October 12, 2004

Section 54.516 (a) (1), which was effective as of October 13, 2004

Application Matters:

Section 54.501 (b), as revised, which was originally effective as of July 17, 1997

Section 54.504 (b) (1), as revised, which was originally effective as of July 17, 1997

Section 54.504 (b) (2), as revised, which was originally effective as of July 17, 1997

Section 54.504 (b) (2) (i), as revised, which was originally effective as of February 12, 1998

Section 54.504 (b) (2) (iii), which was effective as of October 13, 2004

Section 54.504 (b) (2) (iv), which was effective as of October 13, 2004

Section 54.504 (b) (2) (v), which was effective from July 17, 1997 to October 12, 2004

Section 54.504 (b) (2) (vi), which was effective as of October 13, 2004

Section 54.504 (b) (2) (vii), which was effective from July 17, 1997 to October 12, 2004

Section 54.504 (c), which was effective as of February 12, 1998

Section 54.505 (b), which was effective as of July 17, 1997

Section 54.505 (c), as revised, which was originally effective as of July 17, 1997

Section 54.508 (a), which was effective as of October 13, 2004

Section 54.508 (c), which was effective as of October 13, 2004

Section 54.520 (c), which was effective as of April 20, 2001

Section 54.520 (c) (1) (i), which was effective as of April 20, 2001

Section 54.520 (c) (1) (ii), which was effective as of April 20, 2001

Attachment I, continued

Federal Communications Commission's (FCC's) 47 C.F.R. Part 54 Rules and Related Orders with which Compliance was Examined, continued

Service Provider Selection Matters:

Section 54.504 (a), which was effective as of February 12, 1998

Section 54.504 (b) (4), which was effective as of January 1, 1999

Section 54.511 (a), as revised, which was originally effective as of July 17, 1997

FCC Order 03-313, paragraphs 39 and 56, which was issued on December 8, 2003

FCC Order 00-167, paragraph 10, which was issued on May 23, 2000

Receipt of Services and Reimbursement Matters:

Section 54.500 (b), which was effective as of July 21, 2003

Section 54.504, which was effective as of July 17, 1997

Section 54.504 (b) (2) (ii), which was effective from February 12, 1998 through October 12, 2004

Section 54.504 (b) (2) (iii), which was effective from July 17, 1997 through October 12, 2004

Section 54.504 (b) (2) (v), which was effective from July 17, 1997 through March 10, 2004

Section 54.504 (b) (2) (v), which was effective as of October 13, 2004

Section 54.504 (c) (1) (vii), which was effective as of October 13, 2004

Section 54.505 (a), which was effective as of July 17, 1997

Section 54.513 (c), which was effective as of March 11, 2004

Section 54.514 (b), as revised, which was originally effective as of July 21, 2003

Section 54.523, which was effective as of March 11, 2004

FCC Order 03-313, paragraph 60, which was issued on December 8, 2003

FCC Order 04-190, paragraph 24, which was issued on August 13, 2004

Schedule of Findings
(presented in accordance with the standards applicable to attestation engagements contained
in *Government Auditing Standards*)

Matters Related to Material Non-Compliance

Finding No.	SL2007BE149_F01
Condition	Columbus Public Schools ("Beneficiary") did not have an approved technology plan in place during a portion of Funding Year ("FY") 2003, as would be necessary relative to Funding Request Number ("FRN") 1002370. The approved technology plan in place, when filing the Federal Communications Commission ("FCC") Form 470, expired on July 28, 2003, 28 days into the FY 2003. The subsequent technology plan was not approved until January 29, 2004; therefore, the Beneficiary did not have an approved technology plan in place to cover the entire Funding Year.
Criteria	Per FCC Rule 54.504 (b) (2) (vii) which was effective from July 17, 1997 to October 12, 2004, the School/District must have a technology plan that had been certified by its state, the Universal Service Administrative Company ("USAC") or an independent entity approved by the FCC at the time of filing the FCC Form 470.
Cause	The Beneficiary does not have a procedure in place to ensure that their Technology Plan is approved prior to the service start date. This missing procedure represents a deficiency in internal controls over compliance with FCC Rules within the Beneficiary's application process.
Effect	The monetary effect of this finding is that \$548,791 disbursed under FRN 1002370 during the fiscal year ended June 30, 2007, is subject to recovery by the USAC. This amount represents the undiscounted cost of services during the period without an approved technology plan, \$694,672, multiplied by the Beneficiary's discount rate of 79%.
Recommendation	The Beneficiary should consider creating a procedure to periodically review their technology plan well in advance of the anticipated service start date to ensure that there is adequate time to obtain appropriate approvals.
Beneficiary Response	Columbus Public Schools (CPS) had a technology plan in place for the 1999-2000 funding year through the 2004-2005 funding year, which was approved by SchoolNet in 2000. The services designated in that technology plan, including those listed in FRN 1002370, were provided to CPS at least until the plan was revised and approved by E-Tech on January 29, 2004. Consequently, as CPS had a technology plan that was certified by its state and the services described in that plan were utilized between July 29, 2003

Attachment 2, continued

Schedule of Findings, continued
(presented in accordance with the standards applicable to attestation engagements contained
in *Government Auditing Standards*)

and January 29, 2004, CPS had an approved technology plan for the entire 2003-2004 funding year. Consequently, CPS certification regarding the approval status of its technology plan was clearly in compliance with requirements of §54.504 (b) (2) (vii).

**KPMG Comment on
Beneficiary Response**

We understand your position. However, per email notification from the certified Technology Plan approver for the State of Ohio, the Technology Plan in place during the filing of the FCC Form 470 was certified by the State for the period from July 28, 2000 through July 28, 2003. The subsequent Technology Plan was not approved until January 24, 2004 resulting in approximately a six month period for which an approved Technology Plan did not exist.

Other Matters Related to Non-Compliance

Finding No.	SL2007BE149_F02
Condition	The Beneficiary's written record retention policy includes a document retention period of four years for vendor bids, bank statements and checks, while the FCC rules dictate a retention period of five years.
Criteria	Per FCC Rules 54.516 (a) (1) and 54.504 (c) (1) (x), beneficiaries must retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least five years after the last day of service delivered in a particular Funding Year.
Cause	The Beneficiary does not have a procedure in place to periodically review written policies to ensure their compliance with FCC rules. This missing procedure represents a deficiency in internal controls over compliance with FCC Rules within the Beneficiary's document retention process.
Effect	There is no monetary effect as a result of this finding, since we were able to obtain the documentation requested.
Recommendation	We recommend that the Beneficiary update their written record retention policy using the FCC guidance and retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least five years. We encourage the Beneficiary to review FCC Rule updates annually to ensure their written policies and procedures are compliant with FCC Rules.

Attachment 2: continued

Schedule of Findings, continued
(presented in accordance with the standards applicable to attestation engagements contained
in *Government Auditing Standards*)

Beneficiary Response Columbus Public Schools has retained relevant documents since the inception of the E-Rate program but will consider updating its record retention policy documents to reflect E-Rate requirements.



Columbus City Schools
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Columbus, Oh 43215
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Mission: Each student is highly educated, prepared for leadership and service, and empowered for success as a citizen in a global community.

**Report of Management on Compliance with Applicable Requirements of 47 C.F.R
Section 54 of the Federal Communications Commission's Rules and Regulations
and Related Orders**

Management of Columbus City Schools (the "District") is responsible for ensuring the District's compliance with applicable requirements of 47 C.F.R. Sections 54.500 through 54.523 of the Federal Communications Commission's ("FCC") Rules and Regulations for Universal Service Support for Schools and Libraries, as amended, and related FCC Orders.

Management has performed an evaluation of the District's compliance with the applicable requirements of 47 C.F.R. Section 54.500 through 54.523, as amended, and related FCC Orders with respect to disbursements made from the Universal Service Fund during the period July 1, 2006 through June 30, 2007 on our behalf and the related Funding Years 2003 and 2005 applications for funding and service provider selections related to the Funding Request Numbers ("FRNs") for which such disbursements were made. Based on this evaluation, we assert that as of September 29, 2006, the District complied with all applicable requirements of 47 C.F.R. Sections 54.500 through 54.523, as amended, and related FCC Orders in all material respects.

The District used SBC and AT&T as its service providers relative to the FRNs for which disbursements were made during the year July 1, 2006 through June 30, 2007. In addition to providing the goods and/or services for which the disbursements were made relative to those FRNs, SBC and AT&T performed the following specific functions to qualify as a service provider for the Schools and Libraries Support Mechanism and on behalf of the District, as applicable:

- Preparation and submission of FCC Forms 473, Service Provider Annual Certification Form
- Preparation and submission of FCC Forms 474, Service Provider Invoice
- Receipt of disbursements from the Universal Service Fund as requested by FCC Forms 472, Billed Entity Applicant Reimbursement, or FCC Forms 474, Service Provider Invoice
- Reimbursement to the District of disbursements from the Universal Service Fund as requested by FCC Forms 472, Billed Entity Applicant Reimbursement

The District has obtained and relied upon assurance from SBC and AT&T to verify that controls and procedures relating to these assertions have been established and maintained by SBC and AT&T in accordance with all applicable requirements of 47 C.F.R. Sections 54.500 through 54.523, as amended, and related FCC Orders.

The Columbus City School District does not discriminate because of race, color, national origin, religion, sex or handicap with regard to admission, access, treatment or employment. This policy is applicable in all district programs and activities.

The District represents the following assertions per the applicable FCC Rules and Regulations, as amended, and related FCC Orders (which are identified herein with each assertion) with respect to disbursements made from the Universal Service Fund for the period July 1, 2006 through June 30, 2007 on our behalf relative to the FRNs for which such disbursements were made and the related Funding Year 2003 and 2005 applications for funding and service provider selections for such FRNs:

A. Record Keeping -- The District:

- 1) maintained for its purchases of telecommunications and other supported services at discounted rates the kind of procurement records that it maintains for other purchases (Section 54.516 (a) which was effective from July 17, 1997 through October 12, 2004)
- 2) retained all documents, to date, related to the application for, receipt, and delivery of discounted telecommunications and other supported services. Also, any other document that demonstrated compliance with the statutory or regulatory requirements for the schools and libraries mechanism was retained. (Sections 54.516(a)(1) and 54.504(c)(1)(x) which were effective as of October 13, 2004 and require a five-year retention period for such documents), with the exception of the finding brought forth by the KPMG compliance attestation examination.

B. Application Matters -- The District:

- 1) requested discounts from the Universal Service Fund for telecommunications and other supported services only for schools that meet the statutory definition of elementary and secondary schools found under section 254(h) of the Communications Act of 1934, as amended in the No Child Left Behind Act of 2001, 20 U.S.C. 7801(18) and (38), do not operate as for-profit businesses, and do not have endowments exceeding \$50 million. (Section 54.504 (b) (2) (i) which was effective as of October 13, 2004 and superseded Section 54.504 (b) (2) (i) which was effective as of February 12, 1998; as well as Section 54.501 (b), as revised, which was originally effective as of July 17, 1997)
- 2) submitted a completed FCC Form 470, including the required certifications, signed by the person authorized to order telecommunications and other supported services. (Section 54.504 (b) (2), as revised, which was originally effective as of July 17, 1997)
- 3) had the resources required to make use of the services requested, or such resources were budgeted for purchase for the current, next or other future academic years, at the time the FCC Form 470 was filed. (Section 54.504 (b) (1), as revised, which was originally effective as of July 17, 1997; and Section 54.504 (b) (2) (vi) which was effective as of October 13, 2004 and superseded Section 54.504 (b) (2) (v) which was effective as of July 17, 1997)
- 4) had a technology plan for using the services requested at the time of filing the FCC Form 470 that had been or would be approved by its state or other authorized body prior to the receipt of the requested services. (Sections 54.504 (b) (2) (iii) and (iv); as well as 54.508 (c) which were effective as of October 13, 2004)
- 5) the technology plan for using the services requested in the FCC Form 470 included the following elements: (Section 54.508 (a) which was effective as of October 13, 2004)
 - a) a statement of goals and a strategy for using telecommunications and information technology to improve education;

- b) a professional development strategy to ensure that the staff understands how to use these new technologies to improve education;
 - c) an assessment of the telecommunication services, hardware, software, and other services that will be needed to improve education;
 - d) a budget sufficient to acquire and support the non-discounted elements of the plan: the hardware, software, professional development, and other services that will be needed to implement the strategy; and
 - e) an evaluation process that enables the school to monitor progress toward the specific goals and make mid-course corrections in response to new developments and opportunities as they arise.
- 6) had a technology plan that had been certified by its state, USAC or an independent entity approved by the FCC at the time of filing the FCC Form 470 (Section 54.504 (b) (2) (vii) which was effective from July 17, 1997 to October 12, 2004), with the exception of the finding brought forth by the KPMG compliance attestation examination concerning FRN 1002370 for the disbursed amount of \$ 548,790.88.
- 7) accurately determined its level of poverty, for use in determining its available discount rate, by using the percentage of its student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism in the public school district in which they are located. (Section 54.505 (b) which was effective as of July 17, 1997)
- 8) accurately applied the approved discount matrix, with the correct consideration of urban or rural location, to its determined level of poverty to set its discount rate to be applied to eligible goods and/or services. (Section 54.505 (c), as revised, which was originally effective as of July 17, 1997)
- 9) submitted a completed FCC Form 471 only after signing a contract for eligible goods and/or services (Section 54.504 (c) which was effective as of February 12, 1998)
- 10) requested only, and funds were disbursed by the Universal Service Fund only for, eligible goods and services. (Section 54.504 (b) (1) which was effective as of July 17, 1997 and 54.504 (c) which was effective as of February 12, 1998), with the exception of the finding brought forth by the KPMG compliance attestation examination concerning FRN# 1002370 for the disbursed amount of \$ 548,790.88.
- 11) submitted a certification on FCC Form 486 that an Internet safety policy is being enforced and complied with the certification such that: (Section 54.520 (c) which was effective as of April 20, 2001)
- a) it enforced a policy of Internet safety that includes monitoring the online activities of minors and the operation of a technology protection measure, with respect to any of its computers with Internet access, that protects against access through such computers to visual depictions that are obscene, child pornography or harmful to minors (Section 54.520 (c) (1) (i) which was effective as of April 20, 2001); and
 - b) its Internet safety policy addresses each of the following (Section 54.520 (c) (1) (ii) which was effective as of April 20, 2001):
 - i) access by minors to inappropriate matter on the Internet and World Wide Web;
 - ii) the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;

- iii) unauthorized access, including so-called 'hacking', and other unlawful activities by minors online;
- iv) unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and
- v) measures designed to restrict minors' access to materials harmful to minors.

C. Service Provider Selection Matters – The District:

- 1) made a request for competitive bids for all eligible goods and/or services for which Universal Service Fund support was requested and complied with applicable state and local procurement processes included in its documented policies and procedures. (Section 54.504 (a) which was effective as of February 12, 1998, with clarification included in FCC Order 03-313, paragraphs 39 and 56, which was issued December 8, 2003 and was effective for Funding Year 2005)
- 2) waited at least four weeks after the posting date of the FCC Form 470 on the USAC Schools and Libraries website before making commitments with the selected service providers. (Section 54.504 (b) (4) which was effective as of January 1, 1999)
- 3) considered all bids submitted and selected the most cost-effective service offering, with price being the primary factor considered. (Section 54.511 (a) which was effective as of July 21, 2003)
- 4) considered all bids submitted and selected the most cost-effective service offering. (Section 54.511 (a) which was effective from July 17, 1997 through July 20, 2003)
- 5) did not surrender control of its competitive bidding process to a service provider that participated in that bidding process and did not include service provider contact information on its FCC Forms 470. (FCC Order 00-167, paragraph 10, which was issued on May 23, 2000)

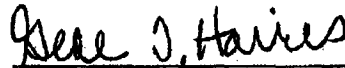
D. Receipt of Services and Reimbursement Matters – The District:

- 1) applied its discount percentage to the appropriate pre-discount price (Section 54.505 (a) which was effective as of July 17, 1997), with the exception of the finding brought forth by the KPMG compliance attestation examination concerning FRN# 1002370 for the disbursed amount of \$ 548,790.88.
- 2) received reimbursement from its service provider for purchases for which it had paid full price to the service provider (Section 54.514 (b), as revised, which was originally effective as of July 21, 2003 as confirmation of earlier administrative practices)
- 3) used the services requested solely for educational purposes. (Section 54.504 (b) (2) (v) which was effective as of October 13, 2004 and superseded Section 54.504 (b) (2) (ii) which was effective as of February 12, 1998; as well as Section 54.504 (c) (1) (vii) which was effective as of October 13, 2004, and Section 54.500 (b) which was effective as of July 21, 2003)
- 4) with respect to eligible services and equipment components purchased at a discount: (Section 54.504 (b) (2) (v) which was effective as of October 13, 2004 and superseded Section 54.504 (b) (2) (iii) which was effective July 17, 1997 and Section 54.513 (c) which was effective March 11, 2004)
 - a. did not sell or resell such items for money or any other thing of value;
 - b. did not transfer such items, with or without consideration of money or any other thing of value, for a period of three years after purchase, or to date, other than in the event that such transfer was made to another eligible school or library in the

event the particular location where the service was originally received was permanently or temporarily closed;

- c. notified USAC of any such allowable transfer; and
 - d. maintained, as did the recipient, detailed records documenting the transfer and the reason for the transfer date.
- 6) paid all "non-discount" portions of requested goods and/or services. (Section 54.523 which was effective as of March 11, 2004; and was clarified in FCC Order 04-190, paragraph 24, which was issued August 13, 2004; as well as Section 54.504 (b) (2) (v) which was effective from July 17, 1997 through March 10, 2004)
- 7) deducted from the pre-discount cost of services, indicated in funding requests, the value of all price reductions, promotional offers and "free" products or services. (Section 54.504 which was effective as of July 17, 1997, with confirmation of earlier administrative practices included in FCC Order 03-313, paragraph 60, that confirmed earlier administrative practices, which was issued on December 8, 2003, and codified in Section 54.523 which was effective as of March 11, 2004)

Dated September 29, 2008



Dr. Gene T. Harris, Superintendent
Columbus City Schools



Michael McCammon, Interim Treasurer
Columbus City Schools



Jack McCarrick, E-Rate Coordinator
Columbus City Schools